Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Implementation of Section 621(a)(1) of the Cable	)	MB Docket No. 05-311
Communications Policy Act of 1984 as Amended	)	
by the Cable Television Consumer Protection and	)	
Competition Act of 1992	)	

COMMENTS OF VILLAGE OF HOFFMAN ESTATES, ILLINOIS

The Village of Hoffman Estates appreciates the opportunity to file comments on the Second Further Notice of Proposed Rulemaking ("FNPRM") in the above-referenced docket. Hoffman Estates is a northwest suburb of Chicago with nearly 52,300 residents. We operate one access channel to provide programs to our residents that they cannot get elsewhere, such as our municipal government meetings, and other activities. We also provide coverage of high school sporting events and concerts.

We strongly oppose the tentative conclusion in the FNPRM that the value of cable franchise obligations, such as those that allow our programming to be viewed on the cable system, can be deducted from franchise fees. This is a contractual obligation negotiated during franchise renewal rather than a requirement unilaterally imposed by the Village. It is also a viewer benefit that was originally proposed by the cable provider to make their programming more attractive to their subscribers. It is one of the ways cable is able to differentiate themselves from satellite video providers in that they provide this highly localized programming that they cannot get via dish. The small amount of capacity used in providing the public benefit of Public, Educational and Governmental (PEG) channels should not be offset by reductions in franchise fees, especially

if the "fair market value" of this channel capacity gets to be determined by the cable provider, which can artificially inflate the value of this capacity to several times actual cost.

Franchise fees are a diminishing revenue stream based upon the cable provider's usage of the Public Rights of Way by the cable provider to distribute their services to our residents. The cable system takes up space in this public property to generate profits from an ever increasing array of services that do not contribute to franchise fee payments. In recent years services such as broadband Internet, telephone and home security services run over the "cable systems" while we only receive franchise fee revenue based on sales of television services. Cable providers also provide separate backhaul services for other Internet Service Providers and wireless telephone providers over systems that have nothing to do with cable services, but are still covered under their cable franchise agreements. This essentially has nonprofit municipalities subsidizing highly profitable cable companies, which is not right.

Franchise fee revenue that is not spent on programming our channel go to provision of other municipal services, such as Police and Fire, and help us keep taxes down. This rental income provides public benefit beyond just the video programming that we provide to our residents, which cannot be found anywhere else. We reject the implication in the FNPRM that PEG programming is for the benefit of the local franchising authority (LFA) or the PEG provider, rather than the public. As demonstrated above, Hoffman Estates' HETV provides valuable local programming that is not otherwise available on the cable system or local broadcasters. Yet the Commission tentatively concludes that non-capital PEG requirements should be considered franchise fees because they are, in essence, taxes imposed for the benefit of LFAs or their designated PEG providers. By contrast, the FNPRM tentatively concludes that build-out requirements are not franchise fees because they are not contributions to the franchising authority. The FNPRM then requests comment on "other requirements besides build-out obligations that are not specifically for the use or benefit of the LFA, or an entity designated by the LFA, and therefore should not be considered contributions to an LFA."[1] PEG programming fits squarely into the category of benefits that do not accrue to the LFA or its designated access provider, yet the Commission concludes without any discussion of the public benefits of local programming that non-capital

[1] FNPRM ¶ 21.

PEG-related provisions benefit the LFA or its designee rather than the public and cable subscribers. We disagree.

For example: We invite the Commission to view for themselves the important benefits provided by PEG programming. The link below is to a video of our latest Village Board and Special Finance Committee meetings. https://youtu.be/gbXLctBKTig Programs such as this meeting are rerun during the week to provide opportunities for people to access this information that are not able to attend the live event.

The cable providers profit from a lot of services provided over their cable system that does not contribute to the franchise fee generating cable services that municipalities collect fees on, yet still require space in our rights-of-way that we cannot collect rent for. The small amount of channel space negotiated for PEG channel programming provides a unique benefit for the community as a whole rather than the municipality in particular. The provision of these channels is a contractual issue, negotiated during franchise renewal. The highly profitable cable providers are more than capable of taking care of their own interests during these negotiations and does not need the help of the federal government. We ask that you leave the franchising process the way it has been over the years and do not enact rules that benefit highly profitable cable providers to the detriment of nonprofit municipalities.

Respectfully submitted,

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November 12, 2018